

From the INTERNATIONAL BUREAU

PCT

**NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

(PCT Rule 72.2)

To:

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JAPON

Date of mailing (<i>day/month/year</i>) 16 September 2004 (16.09.2004)	IMPORTANT NOTIFICATION
Applicant's or agent's file reference NIS-7-PCT	
International application No. PCT/JP2003/000168	International filing date (<i>day/month/year</i>) 10 January 2003 (10.01.2003)
Applicant NISSHIN OILLIO GROUP, LTD. et al	

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, CO, EP, GH, KG, KR, MK, MZ, RO, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, BA, BB, BG, BR, BY, BZ, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, ES, FI, GB, GD, GE, GM, HR, HU, ID, IL, IN, IS, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MN, MW, MX, NO, NZ, OA, OM, PH, PL, PT, SC, SD, SE, SG, SK, SL, TJ, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Masashi Honda
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Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

PCT Application
PCT/JP2003/000168



Applicant's or agent's file reference NIS-7-PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/JP03/00168	International filing date (day/month/year) 10 January 2003 (10.01.03)	Priority date (day/month/year) 15 January 2002 (15.01.02)
International Patent Classification (IPC) or national classification and IPC A61K 7/48, 7/00, 7/035, 7/42, 9/10, 47/10, 47/12		
Applicant THE NISSHIN OILLIO, LTD.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet. <input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of _____ sheets.
3. This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 29 July 2003 (29.07.03)	Date of completion of this report 12 November 2003 (12.11.2003)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP03/00168

I. Basis of the report

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☐ the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the claims:
 pages _____, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the drawings:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP 03/00168

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1 - 7	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1 - 7	NO
Industrial applicability (IA)	Claims	1 - 7	YES
	Claims		NO

2. Citations and explanations

Document 1: JP 10-273433 A
Document 2: JP 2000-86484 A
Document 3: EP 1044672 A1
Document 4: JP 2001-187711 A

The inventions set forth in claims 1-7 do not involve an inventive step in the light of documents 1-4 cited in the international search report.

Claim 1

Claims 1-3 of document 1 cited in the international search report discloses water-in-oil emulsion cosmetics containing an ester compound obtained by esterification of a polyhydric alcohol, a C8-30 straight-chain or branched unsaturated or hydroxy fatty acid and a C12-30 straight-chain or branched dibasic acid. Document 1 also indicates that the ester compound is capable of gelling highly polar oil, and that suitable constituents such as an oil fraction can be included in addition to the essential constituents ([0012] and [0020]).

Moreover, documents 2-4 disclose water-in-oil emulsion cosmetics wherein inorganic salts are included in the aqueous phase in order to improve aspects such as stability and feel (document 2, claims 1 and 3 and

paragraphs [0005] and [0010]; document 3, claim 1 and paragraph [0042]; and document 4, claims 1 and 3 and paragraph [0010].

Therefore, a person skilled in the art could easily conceive of investigating the inclusion of inorganic salts disclosed in documents 2-4 in order to improve aspects such as stability and feel in the invention disclosed in document 1; and no special effect appears to be offered thereby.

Claims 2-5

The inclusion rates of the different constituents are such as can be altered and optimized at the discretion of a person skilled in the art, and no special effect appears to be offered thereby.

Claim 6

The compounds used for esterification in the examples in document 1 are glycerol, behenic acid and eicosadianoic acid (paragraph [0025]).

Claim 7

Document 1 indicates that additives such as UV protecting agents, antioxidants, amino acids, fragrances and alcohol can be included (paragraph [0020]).